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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,531	04/11/2001	Wlodek Olesinski	020350-000100US	2480
20350	7590	04/21/2005	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			HAILE, FEBEN	
			ART UNIT	PAPER NUMBER
			2663	

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/833,531

Applicant(s)

OLESINSKI ET AL.

Examiner

Feben M Haile

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,9,11,12,14,19 and 30 is/are rejected.
- 7) ☒ Claim(s) 2-8,10,13,15-18,20-29 and 31-34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/11/2005.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 9, 11-12, 14, 19 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Takase et al (US 5,822,535), hereinafter referred to as Takase.

**Regarding claims 1, 11, and 30,** Takase discloses a method of defining an order for sending a plurality of requests for statistics to an associated plurality of nodes in a communication network (**figure 2, figure 8 unit S13, and column 2 lines 55-58, column 10 lines 6-7, and column 16 lines 18-19; a network management and data collection system that includes management node confirms a schedule for sending inquiry packets to managed nodes to request them to collect data at shifted time intervals**), one or more requests of said plurality of requests being associated with an individual node of said associated plurality of nodes (**column 11 lines 28-29; each managed node receives an inquiry packet**), and each of said associated plurality of nodes having one or more node attributes (**column 1 lines 39-41; the managed nodes collect data that correspond to a device and attribute name**), said method comprising: defining a sequence for sending a plurality of requests to be sent to said associated plurality of nodes (**figure 2, figure 8 unit S13, and column 2 lines 55-58, column 10 lines 6-7, and column 16 lines 18-19; a**

**management node confirms a schedule for sending inquiry packets to managed nodes to request them to collect data at shifted time intervals), said sequence is based on a value of a selected node attribute of said one or more node attributes of each of said associated plurality of nodes (column 5 lines 16-24; the management node includes a file that stores data from the managed nodes that is required for the scheduling of collection requests); and initiating each of said plurality of requests according to said sequence (figure 8 unit S13 and column 2 lines 56-58; the managed nodes collect the data with the specified time interval).**

**Regarding claim 9,** Takase discloses wherein said selected node attribute identifies an operating characteristic of each of said associated plurality of nodes (column 1 lines 56-57 and column 8 lines 31-33; the managed nodes include managed object devices, such as a CPU or a printer, that have corresponding attribute values); and said defining said sequence ranks said associated plurality of nodes in a predetermined order utilizing each of said values of said selected node attribute of said associated plurality of nodes (column 5 lines 16-24; the management node includes a file that stores data from the managed nodes that is required for the scheduling of collection requests).

**Regarding claim 12,** Takase discloses wherein said method is repeated in a cyclic time interval (it is inherent that the network management and data collection system would repeatedly send inquiry packets to the managed nodes to gather data to manage the network more efficiently).

**Regarding claim 14**, Takase discloses a computer (**figure 2; management node**), and a program executed on said computer, said program comprising: a sequencing module defining a sequence for sending a plurality of requests for statistics to be sent to an associated plurality of nodes of said plurality of nodes (**figure 2, figure 8 unit S13, and column 2 lines 55-58, column 10 lines 6-7, and column 16 lines 18-19; a management node confirms a schedule for sending inquiry packets to managed nodes to request them to collect data at shifted time intervals**), one or more requests of said plurality of requests being associated with an individual node of said associated plurality of nodes (**column 11 lines 28-29; each managed node receives an inquiry packet**), said sequence based on a value of a selected node attribute of said one or more node attributes of each of said associated plurality of nodes (**column 5 lines 16-24; the management node includes a file that stores data from the managed nodes that is required for the scheduling of collection requests**); and an initiating module initiating each of said plurality of requests according to said sequence (**figure 8 unit S13 and column 2 lines 56-58; the managed nodes collect the data with the specified time interval**).

**Regarding claim 19**, Takase discloses an apparatus for use in a statistics collection unit in a communication network (**column 1 lines 11-12; a network management and data collection system**), said communication network comprising a plurality of nodes (**column 1 lines 21-23; the network is connected to a plurality of managed nodes**); said apparatus comprising a device defining a sequence for sending a plurality of requests for statistics to be sent from said statistics collection unit to an

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associated plurality of nodes of said plurality of nodes in said segment (**figure 2, figure 8 unit S13, and column 2 lines 55-58, column 10 lines 6-7, and column 16 lines 18-19; a management node confirms a schedule for sending inquiry packets to managed nodes to request them to collect data at shifted time intervals**).

### ***Allowable Subject Matter***

2. Claims 2-8, 10, 13, 15-18, 20-29, and 31-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

a) Maltz et al. (US 2002/0143929), Method and System for Collection and Storage of Traffic Data from Heterogeneous Network Elements in a Computer Network


b) Weldon et al. (US 6,366,563), Method, Computer Program Product and Apparatus for Collecting Service Level Agreement Statistics in a Communication Network

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Feben M Haile whose telephone number is (571) 272-3072. The examiner can normally be reached on 6:00am - 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on (571) 272-3139. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



KENNETH VANDERPUYE  
PRIMARY EXAMINER